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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,297

12/08/2003

Jack W. Romano

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7590

06/21/2006

JACK W. ROMANO  
c/c MEDINDICA-PAK, INC  
9701 NE 120TH PLACE  
KIRKLAND, WA 98034

EXAMINER

BOGART, MICHAEL G

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/730,297	Applicant(s) ROMANO ET AL.	
	Examiner Michael G. Bogart	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 5-16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Affidavit***

The affidavit under 37 CFR 1.132 filed 10 March 2006 is sufficient to overcome the rejection of claims 7-14 based upon Romano (US 2003/0079803 A1).

### ***Withdrawal of Allowability***

The indicated allowability of claims 5, 6 15, 16 and 19-24 is withdrawn in view of the newly discovered reference(s) to Goldberg *et al.* (US 4,620,846; hereinafter "Goldberg"). Rejections based on the newly cited reference(s) follow.

### ***Drawings***

The drawings dated 08 December 2003 are acceptable for examination purposes only. Upon allowance, new formal drawings will be required.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 5-14 and 19-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldberg.

Regarding claims 5 and 6, Goldberg discloses a supply chain method comprising,

a) sealing (40) a liquid (e.g., irrigation fluid) in a container (20) by closing said liquid in said container (20) at manufacturing (col. 6, lines 3-22),

b) providing said liquid in said container (20) at a point of consumption,

c) unsealing (40) said container (20) by removing said closure,

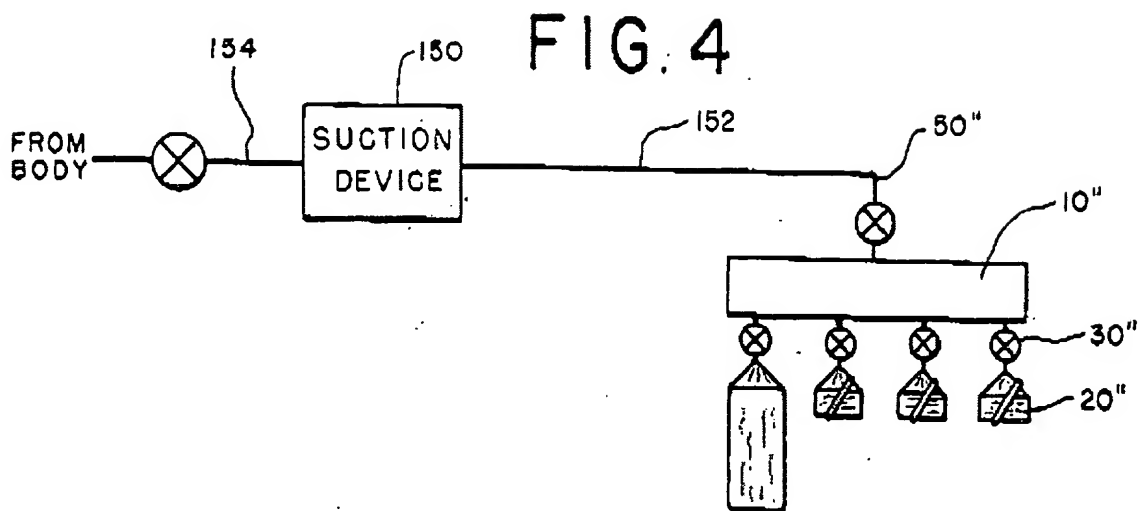
d) sealing a vacuum draw path (152) with said container (20) by coupling said path (152) with a fluent material waste collection system (150, 152, 154, 50, 10) and said container (20),

e) drawing said fluent material waste into said container (20),

f) unsealing (40) said path by disconnecting said container (20) from said vacuum draw path (152) and said waste collection system (150, 152, 154, 50, 10),

g) sealing said container (20) with a closure (40) for containment and disposal of said fluent waste material (Abstract; col. 4, lines 16-50; col. 6, lines 37-48)(figure 4, *infra*).

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Given the context of the entire disclosure, and the emphasis on maintaining sterility of the system, it is at least implied that the fluid to be introduced into a human is sterile or aseptic. "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

Regarding claims 7 and 8, Goldberg teaches that the containers (20) are integrated into a waist collection system (fig. 4) and that the sterile fluid containers are recycled as waist containers (col. 3, line 51-col. 4, line 53).

Regarding claims 9-11, Goldberg teaches that the sterile fluid container (clean side of a supply)(20) is converted to a waist receptacle (dirty disposal side) in a disposal chain.

Regarding claim 12-14, Goldberg at least implies that by reusing supply containers as collection containers will reduce the amount of containers that contribute to garbage compared to

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using completely separate supply and collection containers, resulting in reduced waste and costs and increasing the useful lifetime of the supply containers.

Regarding claims 19-24, Goldberg teaches means (40) for sealing and/or unsealing a vacuum draw path.

Claims 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldberg as applied to claims 5-14 and 19-24 above, and further in view of Weiler *et al.* (US 4,178,976; hereinafter “Weiler”) and Kawakami *et al.* (US 6,159,416 A; hereinafter “Kawakami”).

Goldberg is silent as to the containers being made from biodegradable blow moldable materials.

Weiler teaches a dispensing container comprised of blowmoldable material (col. 4, lines 48-64).

Kawakami teaches blow moldable materials that are biodegradable.

At the time of the invention, it would have been obvious for one of ordinary skill in the art to make the containers of Goldberg out of the blow moldable materials of Weiler and Kawakami in order to provide materials that are recognized in the art as suitable for this purpose and the added benefit of decomposing in landfills.

#### *Allowable Subject Matter*

Claims 4, 17 and 18 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The art of record does not teach or fairly suggest a supply chain method as described in the rejection of claims 5-14 and 19-20, *supra*, adding the additional step of manufacturing the specific container structure claimed in subsection a) of claim 4, and further adding the step threadably connecting the container to the lid of a canister system.

### *Response to Arguments*

Applicant's arguments with respect to claims 5-16 and 19-24 have been considered but are moot in view of the new ground(s) of rejection.

The rejection under 35 USC § 112 first paragraph is withdrawn in light of support for a labeled container in figure 12.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Drinan *et al.* (US 6,907,879 B2).

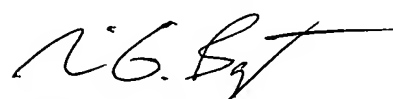
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
2 June 2006

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

